

ORDINANCE NO. 21-__

AN ORDINANCE OF THE CITY OF COLORADO SPRINGS, COLORADO APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF A NOTICE REGARDING EXTENSION OF A STANDBY BOND PURCHASE AGREEMENT BY AND AMONG THE CITY OF COLORADO SPRINGS, COLORADO, BARCLAYS BANK PLC, AND WELLS FARGO BANK, NATIONAL ASSOCIATION, AS TENDER AGENT AND PAYING AGENT, AND A LETTER AGREEMENT AMENDMENT BY AND AMONG THE CITY OF COLORADO SPRINGS, COLORADO, BARCLAYS BANK PLC, AND WELLS FARGO BANK, NATIONAL ASSOCIATION, AS TENDER AGENT AND PAYING AGENT, RELATING TO THE CITY OF COLORADO SPRINGS, COLORADO, VARIABLE RATE DEMAND UTILITIES SYSTEM IMPROVEMENT REVENUE BONDS, SERIES 2010C; AND PROVIDING OTHER MATTERS RELATING THERETO.

WHEREAS, the City of Colorado Springs, Colorado (the “City”) is a municipal corporation and a home rule city duly organized and existing under the laws of the State of Colorado and in particular under the provisions of Article XX of the Constitution of the State of Colorado and the Charter of the City (the “Charter”); and

WHEREAS, the City now owns and operates a municipal water system, electric light and power system, gas system, wastewater system and certain other systems heretofore designated by the City Council (the “Council”) of the City, constituting the Utilities created by the Charter; and

WHEREAS, the City has previously entered into a Standby Bond Purchase Agreement dated October 25, 2017 among the City, Wells Fargo Bank, N.A., as tender agent and paying agent (the “Tender Agent”), and Barclays Bank PLC (the “Bank”), and a Fee Agreement dated October 25, 2017 (the “Fee Agreement”) between the City and the Bank with respect to the City of Colorado Springs, Colorado, Variable Rate Demand Utilities System Improvement Revenue Bonds, Series 2010C (the “2010C Bonds”); and

WHEREAS, the 2010C Bonds are subject to purchase from time to time at the option of the owners thereof and are required to be purchased in certain events and, to further assure the availability of funds for the payment of the purchase price therefor, the City has provided for the remarketing of such 2010C Bonds, only to the extent such remarketing may not be successful, for the purchase of such 2010C Bonds by the Bank pursuant to the Agreement; and

WHEREAS, the Agreement expires on October 25, 2021, unless extended; and

WHEREAS, the City wishes to extend the Expiration Date of the Agreement and make other modifications to the Agreement pursuant to a Notice Regarding Extension (the “Extension Notice”) among the City, the Tender Agent, and the Bank and the Letter Agreement Amendment (the “Letter Agreement Amendment” and together with the Extension Notice, the “Extension Documents”) among the City, the Bank, and the Tender Agent; and

WHEREAS, the Council has determined that the public interest and necessity require the City to enter into the Extension Documents; and

WHEREAS, there has been presented to the Council proposed forms of the Extension Documents.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. Ratification and Approval of Prior Actions. The Council hereby ratifies, approves and confirms all action heretofore taken (not inconsistent with the provisions of this ordinance) with respect to the Agreement, the Fee Agreement and the Extension Documents.

Section 2. Approval of Extension Documents. The forms, terms and provisions of the Extension Documents are hereby approved and the City shall enter into the Extension Documents in the forms presented to the Council at this meeting, with only such changes therein, if any, as are not inconsistent herewith; and the Chief Executive Officer of the Utilities and the acting or permanent Chief Planning and Finance Officer (each an “Authorized Officer”) are each hereby authorized and directed to execute and deliver the Extension Documents.

Section 3. Future Extensions. The Authorized Officers are hereby authorized to enter into and execute and deliver such documents as may be necessary in connection with amendments to the Extension Documents from time-to-time to facilitate the extension for one or more years without further action by the Council so long as: (i) the fee rates shall not be greater than 1% (100 basis points) higher than fees set forth in the related documents for the prior term, (ii) the other terms and conditions of any such extension (including any amendment to the Standby Bond Purchase Agreement required to implement such extension) are substantially similar to the terms and conditions of the Agreement, as amended by the Extension Documents, and (iii) the municipal advisor to the Utilities certifies in writing that the fee rates in such extension are consistent with the market at such time (taking into account, among other considerations, the costs of securing and negotiating a replacement credit agreement with a replacement bank with comparable credit ratings, including attorney fees, as well as any trading advantage or disadvantage associated with a replacement bank).

Section 4. Other Actions. The officers of the City and the officers of the Utilities of the City shall take all action necessary or reasonably required to effectuate the provisions of the Extension Documents.

Section 5. Repealer. All bylaws, orders, resolutions and ordinances of the City, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any other such bylaw, order, resolution or ordinance of the City, or part thereof, heretofore repealed.

Section 6. Severability. If any section, subsection, paragraph, clause or other provision of this ordinance for any reason is invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause or other provision shall not affect any of the remaining provisions of this ordinance.

Section 7. Effective Date and Publication. This ordinance upon passage shall be entered upon the journal of the Council’s proceedings, shall be kept in the book marked “Ordinance Record” and authenticated as required by the Charter, shall be published twice in a legal newspaper of general circulation in the City in compliance with the requirements of the Charter, with the first publication to be at least ten (10) days before final passage by Council of this ordinance, and the second publication to be any time after its final adoption. The Council hereby determines that it is appropriate that publication of this ordinance by title with a summary written by the City Clerk, together with a statement that this ordinance is available for public inspection and acquisition in the office of the City Clerk, shall be sufficient publication pursuant to Section 3-80 of the Charter and this ordinance shall be so published. This ordinance shall be in full force and effective five (5) days after its final publication.

INTRODUCED, READ, PASSED ON FIRST READING, APPROVED AND ORDERED PUBLISHED BY TITLE AND SUMMARY THIS 27th DAY OF JULY, 2021.

FINALLY PASSED: August 10, 2021

Tom Strand, Council President

ATTEST:

By: _____
Sarah B. Johnson, City Clerk

By: _____
John W. Suthers, Mayor

(Attach Affidavit of Publication, by Title and Summary, of Ordinance No. 21-__
upon First Reading)

(Attach Affidavit of Publication, by Title and Summary, of Ordinance No. 21-__
after Second Reading)